

110TH CONGRESS
1ST SESSION

S. 2528

To authorize guarantees for bonds and notes issued for community or economic development purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 19, 2007

Mr. MENENDEZ introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To authorize guarantees for bonds and notes issued for community or economic development purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Full Faith and Credit
5 in Our Communities Act of 2007”.

1 **SEC. 2. GUARANTEES FOR BONDS AND NOTES ISSUED FOR**
 2 **COMMUNITY OR ECONOMIC DEVELOPMENT**
 3 **PURPOSES.**

4 The Community Development Banking and Financial
 5 Institutions Act of 1994 (12 U.S.C. 4701 et seq.) is
 6 amended by inserting after section 114 the following:

7 **“SEC. 114A. GUARANTEES FOR BONDS AND NOTES ISSUED**
 8 **FOR COMMUNITY OR ECONOMIC DEVELOP-**
 9 **MENT PURPOSES.**

10 “(a) DEFINITIONS.—In this section, the following
 11 definitions shall apply:

12 “(1) DIRECTOR.—The term ‘Director’ means
 13 the Director of the Community Development Finan-
 14 cial Institutions Fund.

15 “(2) ELIGIBLE COMMUNITY DEVELOPMENT FI-
 16 NANCIAL INSTITUTION.—The term ‘eligible commu-
 17 nity development financial institution’ means a com-
 18 munity development financial institution that is or-
 19 ganized as a private, not-for-profit association, or
 20 otherwise on a nonprofit basis, that has applied to
 21 an issuer for, or been granted by an issuer, a loan
 22 or note under the Program.

23 “(3) ELIGIBLE COMMUNITY OR ECONOMIC DE-
 24 VELOPMENT PURPOSE.—The term ‘eligible commu-
 25 nity or economic development purpose’—

1 “(A) means any purpose described in sec-
2 tion 108(b); and

3 “(B) includes the provision of community
4 or economic development in low-income or un-
5 derserved rural areas.

6 “(4) GUARANTEE.—The term ‘guarantee’
7 means a written agreement between the Secretary
8 and a guaranteed note or bondholder, pursuant to
9 which, the Secretary ensures repayment of the
10 verifiable losses on any bond issue of the principal,
11 interest, and call premium, if any, on the guaranteed
12 notes or bonds of the issuer.

13 “(5) ISSUER.—

14 “(A) IN GENERAL.—The term ‘issuer’
15 means a community development financial insti-
16 tution that has been approved by the Secretary
17 to receive a guarantee under the Program, and
18 that otherwise meets the qualification require-
19 ments of this section and the rules of the Sec-
20 retary.

21 “(B) APPROVAL CRITERIA FOR ISSUERS.—

22 “(i) IN GENERAL.—The Secretary
23 shall approve a community development fi-
24 nancial institution for a guarantee under
25 the Program in accordance with such

terms and procedures as the Secretary establishes, by rule, for such purpose.

“(ii) TERMS AND QUALIFICATIONS.—
For approval as an issuer under the Program, a community development financial institution shall—

“(I) have appropriate expertise, capacity, and experience, or otherwise be qualified to make loans for eligible community or economic development purposes;

“(II) provide to the Secretary an acceptable capital distribution plan that meets the requirements of this section; and

“(III) certify to the Secretary that the bonds or notes to be guaranteed are to be used for eligible community or economic development purposes.

“(C) DEPARTMENT OPINION; TIMING.—

“(i) DEPARTMENT OPINION.—Not later than 30 days after the date of a request by an issuer for approval of a guarantee under the Program, the General

1 Counsel of the Fund shall provide to the
2 Secretary an opinion regarding compliance
3 by the issuer with the requirements of the
4 Program under this section.

5 “(ii) TIMING.—The Secretary shall
6 approve or deny a guarantee under this
7 section after consideration of the opinion
8 provided to the Secretary under clause (i),
9 and in no case later than 45 days after re-
10 ceipt of all required information is sub-
11 mitted to the Secretary with respect to a
12 request for such guarantee.

13 “(6) LOAN.—The term ‘loan’ means any credit
14 instrument that is extended under the Program for
15 any eligible community or economic development
16 purpose.

17 “(7) MASTER SERVICER.—

18 “(A) IN GENERAL.—The term ‘master
19 servicer’ means any entity approved by the Sec-
20 retary in accordance with subparagraph (B) to
21 oversee the activities of servicers, as provided in
22 subsection (g)(4).

23 “(B) APPROVAL CRITERIA FOR MASTER
24 SERVICERS.—The Secretary shall approve or
25 deny any application to become a master

servicer under the Program not later than 30 days after the date on which all required information is submitted to the Secretary, based on the capacity and experience of the applicant in—

“(i) loan administration, servicing, and loan monitoring;

“(ii) managing regional or national loan intake, processing, or servicing operational systems and infrastructure;

“(iii) managing regional or national originator communication systems and infrastructure;

“(iv) developing and implementing training and other risk management strategies on a regional or national basis; and

“(v) compliance monitoring, investor relations, and reporting.

“(8) PROGRAM.—The term ‘Program’ means the guarantee program for tax-exempt bonds and notes issued for eligible community or economic development purposes created by this section.

“(9) PROGRAM ADMINISTRATOR.—The term ‘program administrator’ means an entity designated

1 by the issuer to perform various administrative du-
 2 ties, as provided in subsection (g)(2).

3 “(10) SECRETARY.—The term ‘Secretary’
 4 means the Secretary of the Treasury.

5 “(11) SERVICER.—The term ‘servicer’ means
 6 an entity designated by the issuer to perform various
 7 servicing duties, as provided in subsection (g)(3).

8 “(b) GUARANTEES AUTHORIZED.—The Secretary
 9 shall guarantee payments on tax-exempt bonds or notes
 10 issued by any issuer approved for such purpose under sub-
 11 section (a)(5)(B), if the proceeds of the bonds or notes
 12 are used in accordance with this section to make loans
 13 to eligible community development financial institutions—

14 “(1) for eligible community or economic devel-
 15 opment purposes; or

16 “(2) to refinance loans or notes issued for such
 17 purposes.

18 “(c) ISSUER REQUIREMENTS AND AUTHORITY.—

19 “(1) IN GENERAL.—The capital distribution
 20 plan required by subsection (a)(5)(B) shall reflect
 21 investment of not less than 90 percent of the prin-
 22 cipal amount of guaranteed bonds or notes in other-
 23 wise unencumbered loans for any eligible community
 24 or economic development purpose, measured annu-
 25 ally, beginning at the end of year 1 of the Program.

1 “(2) RELENDING ACCOUNT.—Not more than 10
 2 percent of the principal amount of guaranteed bonds
 3 or notes, multiplied by an amount equal to the out-
 4 standing principal balance of issued notes or bonds,
 5 minus the risk-share pool amount under subsection
 6 (e), may be held in a relending account and may be
 7 made available for new eligible community or eco-
 8 nomic development purposes.

9 “(3) LIMITATIONS ON UNPAID PRINCIPAL BAL-
 10 ANCES.—The unpaid principal balance of the issued
 11 bonds or notes that are guaranteed under the Pro-
 12 gram may not be used to pay fees, and shall be held
 13 in—

14 “(A) community or economic development
 15 loans;

16 “(B) a relending account, to the extent au-
 17 thorized under paragraph (2); or

18 “(C) a risk-share pool established under
 19 subsection (e).

20 “(4) REPAYMENT.—If an issuer fails to meet
 21 the requirements of paragraph (1), not later than 30
 22 days after the date on which such failure occurs, re-
 23 payment shall be made on the issued bonds or notes
 24 to bring the issuer into compliance.

1 “(5) PROHIBITED USES.—The Secretary shall,
2 by regulation—

3 “(A) prohibit, as appropriate, certain uses
4 of amounts from the guarantee of a bond or
5 note under the Program, including the use of
6 such funds for political activities, lobbying, out-
7 reach, counseling services, or travel expenses;
8 and

9 “(B) provide that the guarantee of a bond
10 or note under the Program may not be used for
11 salaries or other administrative costs of—

12 “(i) the issuer; or

13 “(ii) any recipient of amounts from
14 the guarantee of a bond or note.

15 “(d) CERTAIN INTEREST RATE REDUCTIONS AU-
16 THORIZED.—An eligible community development financial
17 institution or an issuer may use a bond or note issued
18 under the Program, or the proceeds from a guarantee of
19 such a bond or note, as applicable, to reduce the interest
20 rate on a loan, if the loan is made by an issuer to an
21 eligible community development financial institution for
22 any community or economic development purpose.

23 “(e) RISK-SHARE POOL.—Each issuer shall, during
24 the term of a guarantee provided under the Program, es-
25 tablish a risk-share pool, capitalized by an amount equal

1 to not less than 3 percent of the guaranteed amount out-
 2 standing on the subject notes and bonds.

3 “(f) GUARANTEES.—

4 “(1) IN GENERAL.—A guarantee issued under
 5 the Program shall—

6 “(A) be for the full amount of a bond or
 7 note, including the amount of principal, inter-
 8 est, and call premiums;

9 “(B) be fully assignable and transferable
 10 to the Federal Financing Bank or the capital
 11 market, on terms and conditions that are con-
 12 sistent with comparable Government-guaranteed
 13 bonds, and satisfactory to the Secretary;

14 “(C) represent the full faith and credit of
 15 the United States; and

16 “(D) have a final maturity date for the
 17 bonds not to exceed 40 years.

18 “(2) LIMITATIONS.—

19 “(A) ANNUAL NUMBER OF GUARAN-
 20 TEES.—The Secretary shall issue not more than
 21 5 guarantees in any calendar year under the
 22 Program.

23 “(B) GUARANTEE AMOUNT.—The Sec-
 24 retary may not guarantee any amount under
 25 the Program equal to less than \$100,000,000,

1 but the total of all such guarantees in any fiscal
2 year may not exceed \$1,000,000,000.

3 “(g) SERVICING OF TRANSACTIONS.—

4 “(1) IN GENERAL.—To maximize efficiencies
5 and minimize cost and interest rates, loans made
6 under this section may be serviced by qualified pro-
7 gram administrators, bond servicers, and a master
8 servicer.

9 “(2) DUTIES OF PROGRAM ADMINISTRATOR.—

10 The duties of a program administrator shall in-
11 clude—

12 “(A) approving and qualifying eligible com-
13 munity development financial institution appli-
14 cations for participation in the Program;

15 “(B) compliance monitoring;

16 “(C) bond packaging in connection with
17 the Program; and

18 “(D) all other duties and related services
19 that are customarily expected of a program ad-
20 ministrator.

21 “(3) DUTIES OF SERVICER.—The duties of a
22 servicer shall include—

23 “(A) billing and collecting loan payments;

24 “(B) initiating collection activities on past-
25 due loans;

1 “(C) transferring loan payments to the
2 master servicing accounts;

3 “(D) loan administration and servicing;

4 “(E) systematic and timely reporting of
5 loan performance through remittance and serv-
6 icing reports;

7 “(F) proper measurement of annual out-
8 standing loan requirements; and

9 “(G) all other duties and related services
10 that are customarily expected of servicers.

11 “(4) DUTIES OF MASTER SERVICER.—The du-
12 ties of a master servicer shall include—

13 “(A) tracking the movement of funds be-
14 tween the accounts of the master servicer and
15 any other servicer;

16 “(B) ensuring orderly receipt of the
17 monthly remittance and servicing reports of the
18 servicer;

19 “(C) monitoring the collection comments
20 and foreclosure actions;

21 “(D) aggregating the reporting and dis-
22 tribution of funds to trustees and investors;

23 “(E) removing and replacing a servicer, as
24 necessary;

25 “(F) loan administration and servicing;

1 “(G) systematic and timely reporting of
2 loan performance compiled from all bond
3 servicers’ reports;

4 “(H) proper distribution of funds to inves-
5 tors; and

6 “(I) all other duties and related services
7 that are customarily expected of a master
8 servicer.

9 “(h) FEES.—

10 “(1) IN GENERAL.—An issuer that receives a
11 guarantee issued under this section on a bond or
12 note shall pay a fee to the Director, in an amount
13 equal to 30 basis points of the amount of the unpaid
14 principal of the bond or note guaranteed.

15 “(2) PAYMENT.—An issuer shall pay the fee re-
16 quired under this subsection on a semiannual basis.

17 “(3) FUND SUBACCOUNT CREATED.—Fees col-
18 lected under this subsection shall be—

19 “(A) deposited into a separate subaccount
20 in the Fund;

21 “(B) awarded to eligible community devel-
22 opment financial institutions through a com-
23 petitive grant process, in accordance with sec-
24 tions 103(5) and 105 and regulations issued
25 thereunder, or to an eligible community part-

1 nership, in accordance with sections 103(7) and
2 106 and regulations issued thereunder;

3 “(C) limited to eligible community or eco-
4 nomic development purposes; and

5 “(D) committed for use by the Fund with-
6 in 2 years of the date of receipt from the issuer.

7 “(i) AUTHORIZATION OF APPROPRIATIONS.—

8 “(1) IN GENERAL.—There are authorized to be
9 appropriated, such sums as are necessary to carry
10 out this section.

11 “(2) USE OF FEES.—To the extent that the
12 amount of funds appropriated for a fiscal year under
13 paragraph (1) are not sufficient to carry out this
14 section, the Director may use up to 20 percent of
15 the fees collected under subsection (h) for the cost
16 of providing guarantees of bonds and notes under
17 this section before depositing the remainder of the
18 fees into the Fund subaccount established under
19 subsection (h).

20 “(j) ADMINISTRATION.—

21 “(1) REGULATIONS.—Not later than 180 days
22 after the date of enactment of this section, the Sec-
23 retary shall promulgate regulations to carry out this
24 section.

1 “(2) IMPLEMENTATION.—Not later than 240
2 days after the date of enactment of this section, the
3 Secretary shall implement this section.

4 “(k) TERMINATION.—This section is repealed, and
5 the authority provided under this section shall terminate,
6 on September 30, 2012.”.

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